CITATION: Read v. District School Board of Niagara, 2025 ONSC 6425
COURT FILE NO.: CV-25-00062860-000
DATE: 2025-11-21

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:	)	
	)	
Eexii Read, Allison Read, Kniighetti Read and Kory Read	)	Unrepresented
	)	
Plaintiffs/Moving Parties	)	
	)	
– and –	)	
	)	
District School Board of Niagara	)	Talaal Bond and C. Farahat, for the Defendant
	)	
Defendant/Responding Party	)	
	)	
	)	
Attorney General of Ontario	)	Ravi Amarnath and Adrienne Ralph, for the Intervenor
	)	
Intervenor	)	

HEARD: Thursday, July 10, 2025

Corrected Decision: November 24, 2025 - Para. 117 has been corrected as underlined.
No other changes to content have been made.

THE HONOURABLE JUSTICE L.E. STANDRYK

DECISION ON MOTION

Overview of the Motion

[1] Kory and Allison Read are parents to Eexii Read, a minor (the "Minor"), and Kniighetti Read (collectively the "Plaintiffs"). The Plaintiffs initiated a civil action on January 13, 2024 against the District School Board of Niagara (the "Defendant") seeking damages totaling approximately $22,500,000.

[2] The Statement of Claim is lengthy and comprehensive, consisting of hundreds of pages. The causes of action are not pleaded in the same manner as the court would typically encounter when a legally trained individual prepares a pleading. This is not uncommon in circumstances involving self-represented litigants.

[3] On careful inspection of the claim, at its core, the Plaintiffs allege that the Defendant has discriminated against the Minor and has negligently, incompetently and/or maliciously failed to address harmful actions of discrimination and harassment. When properly distilled into legal terms, the Plaintiffs' claims include discrimination, harassment, negligence, misfeasance, and/or nonfeasance.

[4] The Defendant has not yet filed a statement of defence. The Defendant brought a motion asking the court to stay the Plaintiffs' claim until the Minor was represented by a litigation guardian and counsel as required by rr. 7.01(1) and 15.01(1) of the *Rules of Civil Procedure*, R.R.O., 1990, Reg. 194.

[5] During that hearing, Mr. Read raised constitutional challenges to rr. 7.01 7.05(3) and 15.01(1). Justice Donohue declined to hear submissions regarding the challenges to the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act* 1982 (U.K.), 1982, c. 11 and how the *Rules* might prejudice minor persons but ordered a stay of the proceeding without prejudice to a hearing of the Plaintiffs' constitutional challenges. The stay, as ordered by Justice Donohue on February 20, 2025, has since remained in place.

[6] The Plaintiffs and others have referred to the now revoked r. 7.05(3). Previous case law refers to this rule. It has been replaced by r. 7.01(5). Both versions require litigation guardians, other than the Children's Lawyer or the Public Guardian and Trustee, to obtain and instruct a lawyer. It is also clear from submissions that the Plaintiffs contest the application of r. 7.01(1), which requires the Minor to be represented by a litigation guardian. This decision will refer to 7.01(5) but will not amend the wording of previous decisions.

[7] This motion addresses the Plaintiffs' requests for an exemption from compliance with the *Rules* and the *Commissioners for Taking Affidavits Act*, R.S.O. 1990, c. C.17 (the "Commissioning Act") as well as their constitutional challenges.

[8] The Plaintiffs served the Defendant and the Attorney General of Ontario (the "Intervenor") with a Notice of a Constitutional Question on March 20, 2025. Mr. Read seeks a declaration that r. 15.01(1) unjustifiably infringes ss. 2(b), 7 and 15(1) of the *Charter*. The notice does not mention r. 7.01, which the Plaintiffs raised in submissions. As a result, the Plaintiffs request a constitutional exemption from the *Rules* so that Mr. Read can act as the Minor's litigation guardian without representation by legal counsel. Alternatively, they ask that the Minor be permitted to represent himself. Mr. Read also requests leave to represent both his wife and his daughter.

[9] In addition to challenging the constitutionality of rr. 7.01 and 15.01(1), the Plaintiffs request an order of exemption from r. 4.06(1)(e) and s. 9(1) of the Commissioning Act. These

provisions require a moving party to take an oath or declaration in the physical presence of the commissioner, notary public, or other person administering the oath or declaration.

[10] For the reasons that follow, the Plaintiffs' motion is dismissed.

[11] I am not persuaded that an exemption to the *Rules* is in the interests of justice. And, the Plaintiffs have failed to satisfy me that r. 4.06(1)(e) and s. 9(1) of the Commissioning Act, or rr. 7.01 and 15.01(1) violate their constitutional rights guaranteed by ss. 2(b), 7, 12 and 15(1) of the *Charter*.

Materials

[12] The materials filed and considered on this motion include:

i. Plaintiffs' Material:

a. Motion Record dated April 11, 2025:

i. Notice of Motion returnable April 11, 2025;
ii. Notice of Constitutional Question;
iii. Affidavit of Litigation Guardian affirmed March 21, 2025; and
iv. Affidavit of Mr. Read affirmed March 21, 2025.

b) Kory Read Oral Submission in Writing for June 13, 2025, dated June 12, 2025.

ii. Intervenor's Material (the Attorney General of Ontario):

a) Motion Record dated April 4, 2025;
b) Factum dated April 9, 2025, returnable April 11, 2025; and
c) Oral Hearing Compendium.

[13] The Defendant did not file materials in response to the constitutional challenges. The Defendant is aligned with the Intervenor's position and therefore relies on the Intervenor's materials in making their submissions to the court.

[14] The Plaintiffs' materials were voluminous. Kory Read's Affidavit, sworn March 21, 2025, is 61 pages, which includes 412 paragraphs. The affidavit primarily contains legal argument, conclusory statements and opinion evidence.

[15] The "Oral Submissions in Writing" dated June 13, 2025, is 106 pages, including 758 paragraphs. This document is prepared in a similar manner to the affidavit filed by the Plaintiffs.

[16] The Plaintiffs' motion materials and submissions do not adhere to the applicable *Rules*, the "Consolidated Practice Direction for the Central South Region", (June 30, 2025), at paras. 84 – 90, or the "Consolidated Civil Provincial Practice Direction", (June 15, 2023), at para. 45,

concerning the composition and formatting of motion materials. Neither the Intervenor nor the Defendant objected to the Plaintiffs' filings.

[17] The court does not condone non-compliance with the *Rules* or the Practice Directions that all parties, whether represented by counsel or not, are required to follow. In this specific case, considering the Plaintiffs' concerns that they have not been sufficiently heard during their dispute with the Defendant, and in the absence of any objection from the Defendant or the Intervenor, I have reviewed and taken into account the extensive materials submitted by the Plaintiffs, as well as those filed by the Intervenor. This approach is not intended to dilute the required compliance with the *Rules* or Practice Directions, nor should it be taken as a precedent for permitting non-compliance, even in similar circumstances. The integrity of the procedural framework remains essential to the fair and orderly administration of justice.

Improper Notice of Constitutional Question – ss. 11, 12 of the *Charter*, and r. 7.01 of the *Rules*

[18] A review of the Plaintiffs' materials reveals an additional constitutional challenge to r. 15.01 under s. 11 and s. 12 of the *Charter* not found in their Notice of Constitutional Challenge.

[19] The Plaintiffs refer to ss. 11 and 12 in their materials: a reference to s. 12 can be found at paras. 101-102 of the Written Submissions; reference to s. 11 can be found at page 39 of Mr. Read's Affidavit. There is no reference to ss. 11 or 12 in the Notice of Constitutional Question or in the Notice of Motion. The Plaintiffs did not refer to either section of the *Charter* in their oral submission to the court on the hearing date. Neither the Intervenor nor the Defendant have addressed the alleged constitutional question in their materials or oral submissions to the court.

[20] I find that the Plaintiffs did not provide proper notice for this constitutional challenge. Therefore, I conclude that there is no jurisdiction to consider these specific *Charter* challenges raised by the Plaintiffs.

[21] Of added concern, the Plaintiffs did not give any notice of constitutional challenge to r. 7.01, new or old, in any of their materials, but raised the issue in submissions. The Intervenor did not address r. 7.01 in their materials, adding credibility to the concern that they were not notified of this challenge.

[22] The issues raised by r. 7.01, which would not be raised in a challenge to r. 15.01(1) is the Plaintiffs' submission that the Minor ought to be able to represent himself. While the Intervenor and Defendant were not given proper notice to respond to this challenge, they did provide the court with responding submissions. I conclude there is no jurisdiction to consider the *Charter* challenges to r. 7.01.

Issues

[23] The Plaintiffs' materials and submissions primarily focus on the constitutionality of rr. 7.01, 15.01 and 4.03, as well as s. 9(1) of the Commissioning Act. However, a closer examination of their submissions, particularly in their reply, reveals that what the Plaintiffs

genuinely seek is an exemption from complying with these *Rules*. In the Plaintiffs' materials, "this parent" refers to Mr. Read. At paras. 73 and 74 of the Plaintiffs' Notice of Constitutional Question, the Plaintiffs state:

> 73. This parent is not challenging the broader application of the law, nor is the parent seeking any sweeping legislative changes. Instead, the parent is respectfully requesting that the Court, along with the Attorney General of Canada and the Attorney General of Ontario, carefully consider the unique and highly complex circumstances of this case….
>
> 74. This parent is not seeking to undermine the established legal framework but rather to obtain a reasonable and justifiable exemption that acknowledges the extraordinary nature of this situation. The severity and complexity of the allegations presented, coupled with the Defendant's pattern of harmful conduct, demand that the court and relevant authorities approach this matter with a heightened level of care and compassion.

[24] Mr. Read informed the court that the Plaintiffs do not want the court to strike down the *Rules* or change their general application. He acknowledged that, while the *Rules* are not perfect, they serve a valid purpose.

[25] With this clarification, I will focus first on the requested exemption from the *Rules* and then on the constitutional challenges. The questions that I must determine are:

i. Should the Plaintiffs be afforded an exemption from r. 15.01?

   a. Is a waiver from *Rules* 7.01 and 15.01 necessary in the interests of justice?

ii. Should Mr. Read be permitted to represent his wife and adult daughter? Should the Plaintiffs be afforded an exemption from **r. 4.06(1) and** s. 9(1) of the Commissioning Act and if no, do these provisions infringe ss. 2(b), 7 and 15 of the *Charter*?

iii. Is r. 15.01(1) of no force or effect on the ground that it violates the Minor's rights protected under ss. 2(b), 7 and 15(1) of the *Charter*?

General Overview of the Parties' Positions

Plaintiffs

[26] Mr. Read indicated that the Oral Submissions in Writing are intended to help him effectively convey the complete picture of the case. This will allow the court to consider each point with the attention it deserves. He stated that by providing submissions in writing, he aims to ensure that he does not forget or overlook essential elements due to the pressure of time or nerves during the oral submissions on the hearing date.

[27] Mr. Read was given a comprehensive opportunity to address the court. However, he did not cover all the pertinent points in the written materials. His oral submissions largely focused on the alleged behaviour the Minor experienced at school, the feeling that the Defendant and others he has turned to for help (MPs, the Human Rights Commission, etc.) have failed to address these issues or provide assistance, the systemic racism and discrimination perceived by the Plaintiffs as present in both the education and judicial systems, and the desperation for help that leads them to seek intervention through the court process.

[28] A general overview of the plaintiffs' position is as follows.

[29] The Plaintiffs argue that r. 15.01 is being misused to limit vulnerable children's access to justice. This *Rule* enables institutions like the Defendant to protect themselves from scrutiny, knowing that many families struggle to find or afford legal representation. The Plaintiffs contend that enforcing r. 15.01 would place the Minor in an impossible and harmful situation. This would force him to either return to a school system that has clearly failed and harmed him or remain at home, isolated and separated from his peers, attempting to learn in an environment that is fundamentally unequal, unsupported, and emotionally damaging.

[30] The Plaintiffs contend that rr. 15.01 and 4.03 are outdated and inequitable. They violate the Minor's fundamental rights and freedoms guaranteed by the *Charter*, creating a barrier to the courts, denying him access to justice. The Plaintiffs' arguments include:

i. Section 2(b) of the *Charter* is infringed by silencing the Minor's voice in attempting to assert his rights and challenge systemic discrimination in the District School Board of Niagara;

ii. Section 7 of the *Charter* is infringed because reliance on the procedural *Rules* will force the Minor to either return to a school environment where he has been targeted, abused and discriminated against or stay home, segregated and isolated; and

iii. Section 15 of the *Charter* is infringed because the *Rules* use biological and physical characteristics as a basis to restrict and limit the Minor's legal rights to equality before and under the law.

[31] The Plaintiffs argue that if this court enforces the strict application of the *Rules*, it would allow procedural barriers of justice to stand without addressing the abuse and harm inflicted on the Minor. In doing so, the Plaintiffs argue, the court becomes complicit in perpetuating mistreatment of the Minor.

Defendant and Intervenor

[32] On the merits of the constitutional challenge, the Defendant and Intervenor submit:

a) This court resolved the questions of law raised by the Plaintiffs in *Weidenfeld v. Ontario (Education)* (2007), 162 C.R.R. (2d) 359 (Ont. S.C.), leave to appeal refused, 2008 CarswellOnt 3367.

b) The Plaintiffs have failed to provide a sufficient evidentiary foundation for the constitutional challenge or to raise any doubt regarding the soundness of the *Weidenfeld* decision.

c) Rule 15.01(1) does not infringe ss. 2(b), 7 or 15(1) of the *Charter*. Rule 15.01(1) does not restrict expression under s. 2(b), deprive the Minor of life, liberty or security of the person under s. 7, or discriminate against any of the Plaintiffs, including the Minor, under s. 15(1). If the rule were found to infringe any of the *Charter* rights, it would be justified under s. 1.

d) The Plaintiffs have failed to provide any evidence to substantiate their claim that the Commissioning Act has prevented them from having their affidavits commissioned by court staff in person or by anyone who holds themselves out as a commissioner for taking affidavits.

[33] Both the Defendant and the Intervenor submit that the constitutional challenges are premature in light of the court's discretion to grant the Plaintiffs an exemption to the application of r. 15.01 under r. 2.03.

[34] With respect to the request for exemption and the constitutional challenges raised, both the Defendant and the Intervenor argue that the Plaintiffs' material fails to advance a sufficient evidentiary foundation to support the relief requested.

[35] The Defendant and Intervenor request that the Plaintiffs' motion be dismissed.

Analysis and Decision

Lack of an Evidentiary Foundation to Support *Charter* Challenges

[36] Throughout these reasons, I have found deficiencies in the evidentiary and factual foundation of the Plaintiffs' materials and submissions. The rationale for these concerns and resulting consequences bears mention.

[37] To advance a successful constitutional challenge, a robust evidentiary and factual foundation that explicitly articulates how the provisions bear upon protected rights is required. *Charter* decisions should not and must not be made in a factual vacuum: *MacKay v. Manitoba*, [1989] 2 S.C.R. 357, at p. 361.

[38] When the effect of legislation is challenged rather than its underlying purpose, the necessity for a solid factual foundation becomes even more pronounced. The Ontario Court of Appeal in *R. v. Levkovic*, 2010 ONCA 830, 103 O.R. (3d) 1, reiterated the critical role of a comprehensive

factual basis in constitutional challenges, highlighting that the absence of pertinent facts can greatly undermine the validity of the challenge and the resulting judicial decision, especially when there are facts that would be highly relevant to the outcome.

[39] This rationale was similarly applied in the recent case of *Boone v. Kyeremanteng*, 2020 ONSC 198, which supports the assertion that *Charter* decisions carry implications for society as a whole, impacting not just those directly involved in the litigation but also broader segments of the public. As such, it is crucial that courts engage with substantive evidence and a factual foundation when addressing constitutional questions.

[40] It is inappropriate and unsound to address constitutional challenges based solely on theoretical arguments, especially when there is no evidentiary basis to make the requisite findings of fact. The absence of a firm factual foundation, as I have found in this case, is not simply a procedural oversight that can be disregarded; it represents a fundamental defect that jeopardizes the *Charter* challenge: *Mackey*, at p. 366.

Should the Plaintiffs be afforded an exemption from Rules 7.01 and 15.01?

Is a waiver from Rules *7.01 and 15.01 necessary in the interests of justice?*

Applicable Rules of Civil Procedure: 2.03, 7.01 and 15.01

[41] *Rule* 1.03 of the *Rules* states that minors, people who have not yet reached 18 years of age, are persons under disability. Minors, together with other categories of persons under "disability," inherently depend on and are therefore vulnerable to decisions made by others on their behalf: see *Weidenfeld*; *Swan v. The Toronto District School Board*, 2017 ONSC 5212, at para. 3 (Div. Ct.).

[42] *Rule* 7.01(1) requires that a litigation guardian represent a person under disability. Rule 7.01(5) requires that where the litigation guardian is neither the Children's Lawyer nor the Public Guardian and Trustee, then they shall be represented by a lawyer and shall instruct said lawyer throughout the proceeding on behalf of the person under disability.

[43] *Rule* 15.01(1) requires that a party who is under disability, including a minor, or someone acting in a representative capacity, including a litigation guardian, shall be represented by a lawyer. Any other party (other than a corporation) may act in person or be represented by a lawyer: r. 15.01(3).

[44] The Divisional Court in *Swan* affirmed that these *Rules* are mandatory: an individual cannot be both a litigation guardian and a lawyer for the litigation guardian. The *Rules* are presumed to be constitutional until a court of competent jurisdiction finds to the contrary: *Weidenfeld*, at para. 7.

[45] *Rule* 2.03 provides, "the court may, only where and as necessary in the interests of justice, dispense with compliance with any rule at any time". The Intervenor and Defendant submit that courts have exercised this discretion sparingly: see *Scarangella v. Oakville Trafalgar Memorial*

Hospital, 2024 ONSC 5518. The Court of Appeal has recognized that strict compliance with r. 15.01(1) may not, in certain circumstances, be consistent with the interests of justice: *Selkirk v. Trillium Gift of Life Network*, 2022 ONCA 478, leave to appeal refused, 2023 CarswellOnt 3463 (S.C.C.); *Preiano v. Cirillo*, 2024 ONCA 206, 494 D.L.R. (4th) 375, leave to appeal refused, [2024] S.C.C.A. No. 219.

[46] The Intervenor and Defendant submit that the Minor does not need an exemption under r. 2.03 because he has other options to advance his claim, including:

i. retaining counsel on a contingency fee or pro bono basis;

ii. pursuing claims of discrimination before the Human Rights Tribunal of Ontario or the Ontario Special Education Tribunal, where representation by legal counsel is not mandatory; or

iii. considering the appointment of the Office of the Children's Lawyer to represent the Minor in this proceeding as litigation guardian, free of financial charge.

[47] As noted by Justice M.T. Doi in *Scarangella*, in both *Selkirk* and *Preiano,* the issue of a non-lawyer's standing to act under r. 15.01(1) was not raised until after each case had been fully presented. Strict application of the rule in those cases would have caused the parties to face the unjust prospect of having to unwind several years of litigation: *Scarangella*, at para. 14.

[48] In the case before me, both the issue of Mr. Read's standing to act as litigation guardian without legal representation and the ability for the Minor to represent himself was raised at the outset of the proceeding before a statement of defence had been filed. The concern of unwinding several years of litigation at great expense to the parties and the administration of justice is not present and therefore not persuasive.

[49] I now turn to considering the underlying rationale and policy reasons behind r. 15.01(1), as noted by previous courts.

[50] The requirement that a party under disability, including a minor, be represented by a litigation guardian who is represented by a lawyer is founded in the courts' *parens patriae* jurisdiction. It exists to ensure that the specific needs of parties under disability are protected and that the case is advanced in a manner consistent with their best interests.

[51] The Plaintiffs contend that because a minor is permitted to represent themselves in criminal proceedings where the risks to one's life, liberty, and security of the person are higher, they should likewise be entitled to do so in civil litigation. However, this argument overlooks the fundamental differences between criminal and civil proceedings.

[52] In the civil context, the requirement for a litigation guardian serves critical and distinct purposes. Primarily, it ensures that there is a responsible adult who can be held accountable for the conduct of the litigation and through whom the court can enforce compliance with its orders.

Additionally, it provides a mechanism for the recovery of costs should the minor's claim be unsuccessful. These safeguards are essential to the integrity and fairness of civil proceedings and are not paralleled in the criminal justice system, where different procedural and protective frameworks apply: see *Asselin-Normand v. King Edward Realty*, 2015 ONSC 2876, at para. 15; *C.M.M. v . D.G.C.*, 2015 ONSC 39, at para. 74.

[53] The *Rules* at issue also protect minors and others under a disability from exploitative representatives, and well-meaning but untrained and inexperienced friends and family. Among the many issues that may present, non-lawyers do not have a code of ethics, liability insurance, nor do they offer the benefit of solicitor-client privileged confidential communication, which can be so essential to the representative-client relationship: *Weidenfeld,* at para. 20.

[54] The legislature has granted the Law Society exclusive authority to issue licences to practice law. Should the court permit representative plaintiffs to act on behalf of those they represent, it would, in effect, be conferring a limited form of licensing upon these individuals: see *Gagnon et al. v. Pritchard et al* (2002), 58 O.R. (3d) 557 (S.C.), at para. 44.

[55] The Intervenor submitted two affidavits to explain the underlying rationale and policy reasons for r. 15.01. Mr. Read objects to the admissibility of this affidavit evidence, claiming that it constitutes opinion evidence. However, in my view, I do not need to determine the admissibility of either affidavit at this stage of my analysis. Even without considering the content of those affidavits, a review of the materials filed by the Plaintiffs raises significant concerns about granting the Minor the ability to represent himself or allowing Mr. Read to act as his litigation guardian without proper representation.

[56] It is clear to me that Mr. Read is well-intentioned. He has dedicated an enormous amount of time and taken great care in preparing the materials filed with the court. There is no allegation that he is an unscrupulous litigant. His submissions are thoughtful and passionate. Self-represented parties are not expected to prepare materials in a manner customarily prepared by a trained, experienced and licensed lawyer. However, meaning no disrespect to his efforts, the materials demonstrate some fundamental pitfalls. The presentation of the case is inconsistent with general principles of law and evidence:

a) The materials do not comply with the document formatting, length and content requirements of the *Rules* and/or the provisions of the Provincial and Central South Consolidated Practice Directions.

b) The affidavit material includes inadmissible legal argument, speculation and hearsay evidence contrary to the *Rules*: see r. 4.06(2); *Tran v. 863195 Ontario Limited*, 2024 ONSC 5423, at para. 16. While hearsay is admissible on a motion, the source of the information and the facts asserted must be specified: *Rules*, r. 39.01(4); *Badar v. Danish*, 2024 ONSC 3942.

c) The affidavit material includes broad conclusory statements without supporting evidence or facts that are within the scope of the deponent's information or knowledge: see *Lockridge v. Director, Ministry of the Environment*, 2012 ONSC 2316, 350 D.L.R. (4th) 720, at paras. 118-122.

d) The affidavit material is lacking in evidence to support the findings necessary for the court to grant the exception to r. 15.01 requested by the Plaintiffs. Beyond indicating that the Plaintiffs have not been able to retain legal counsel, there is no evidence as to how many lawyers were consulted, when they were consulted and/or if they declined to act, why. Beyond a statement that the family cannot afford to retain counsel, there is no evidence as to the rates of those lawyers consulted and/or whether a contingency fee arrangement was sought.

e) The affidavit is lacking in evidence to support findings necessary for the court to grant the exception to r. 4.03 and s. 9 of the Commissioning Act. The Plaintiffs have made general claims that the commissioning requirements need to be modernized and contribute to a system of exclusion and inequality. However, they have not provided any evidence to demonstrate specific difficulties related to the Act, such as challenges in appearing before a commissioner, either in person or virtually.

[57] By further example, at paras. 319 – 326 of his affidavit sworn March 20, 2025, Mr. Read deposes, and I summarize: While case law may be presented as part of the legal process, it is neither necessary nor decisive. Judges, despite training, are influenced by personal biases and ideologies, which can shape their decisions more than legal precedent. He states judges often select case law, a mere formality, that supports their narrative, making the law malleable in their hands. Judicial decisions are shaped and driven by a judge's personal views, ideology or political perspectives rather than an objective application of the law to the facts. Considering this, Mr. Read argues that judicial bias can undermine fairness and consistency, thereby affecting the integrity of the legal system.

[58] I do not intend to debate Mr. Read's statements; that is not my purpose in addressing them. Instead, these statements and several more included in his affidavit constitute Mr. Read's opinion. His opinion is presumptively inadmissible without a proper foundation. It does not fall within the recognized exceptions to the lay opinion evidence rule: see *Brine v. Industrial Alliance Insurance and Financial Services Inc.*, 2016 SCC 9, [2016] 1 S.C.R. 72; *Graat v. The Queen*, [1982] 2 S.C.R. 819, at p. 835-841.

[59] Mr. Read readily acknowledged that he has no legal training. He is not a lawyer, and he does not pretend to be one. However, he contends that this does not prevent him from following the rules. I agree with the premise of his statement. I believe that his sole motive is to serve and advance his son's best interest. However, the issues identified with the materials filed on behalf of the Plaintiffs demonstrate several risks associated with permitting an individual who lacks the necessary qualifications, training, and experience to represent the legal rights of another. This is even more concerning when a proceeding involves the legal rights of a Minor. These risks

outweigh the compelling access-to-justice argument advanced by the Plaintiffs to justify the requested exemption.

[60] For these reasons, I am not satisfied that a waiver of compliance with r. 15.01(1) pursuant to r. 2.03 is appropriate in this case to permit either the Minor to represent himself or to allow Mr. Read to represent his interests without legal representation. A waiver of compliance with the rules is not necessary in the interests of justice.

Should Mr. Read be permitted to represent his wife and adult daughter?

[61] The Plaintiffs request that I exercise my jurisdiction under r. 2.03 to allow a one-time exemption from the *Rules*, enabling Mr. Read to represent the claims of Allison Read and Kniighetti Read. The Plaintiffs argue that the exemption will avoid unnecessary hardship and ensure that the adult Plaintiffs' claims are adequately and properly represented. Mr. Read argues that allowing him to act on behalf of his wife and daughter would streamline the litigation process, reduce procedural complexity, and minimize the burden on both the parties and the court.

[62] He submits that consolidation of representation is not only efficient but also necessary to prevent further harm. In his view, denying him the ability to represent his wife and daughter perpetuates the injustices they have already endured and exacerbates the emotional and procedural toll on the family. He characterizes the refusal as a compounding of harm, suggesting that the legal system, by enforcing strict procedural barriers, is failing to accommodate the unique circumstances of his family's situation.

[63] However, despite these assertions, Mr. Read has not provided any substantive evidence to support the claim that his wife and daughter are suffering ongoing or exacerbated harm as a result of the current procedural requirements. He primarily relies on broad, conclusory statements, without accompanying affidavits, medical documentation, or other corroborating material to substantiate the alleged hardship.

[64] Moreover, the risks associated with granting Mr. Read an exemption to represent the Minor are equally applicable to this specific request. The potential for a conflict of interest is significant. Unlike members of the legal profession who are bound by strict ethical obligations and fiduciary duties, a lay representative may lack the necessary detachment and professional accountability, thereby increasing the risk that personal interests may improperly influence the conduct of the litigation. Non-compliance with procedural and evidentiary rules, whether through oversight or lack of knowledge, may result in significant prejudice, including the dismissal of claims and considerable cost consequences.

[65] In light of these considerations and based on the evidence before me, permitting Mr. Read to represent his wife or daughter in this proceeding serves neither the interests of justice or the interests of Allison and Kniighetti Read.

Should the Plaintiffs be afforded an exemption from r. 4.06(1) and s. 9(1) of the Commissioning Act and if not, do these provisions infringe ss 2(b), 7 and 15 of the Charter?

[66] *Rule* 4.06(1) requires affidavits to be signed by the deponent and sworn or affirmed in accordance with the Commissioning Act. Section 9 of the Commissioning Act requires that every oath and declaration must be taken by a deponent or declarant in the physical presence of the Commissioner or other person administering the oath or declaration. Where a Commissioner is not in the physical presence of a deponent or declarant, the Commissioner may administer the oath or declaration remotely if the conditions set out in the Commissioning Act are met.

[67] The Plaintiffs argue that the St. Catharines courthouse does not offer remote oaths or declarations, forcing them to attend in person. This requirement places a significant burden on the Plaintiffs and other self-represented litigants, particularly those facing financial, mobility, or other practical constraints.

[68] The Plaintiffs further contend that the lack of remote oath or declaration options at the St. Catharines courthouse violates s. 15 of the *Charter*. Consequently, the Plaintiffs request a one-time exception to the Commissioning Act to allow them to affirm documents either themselves or at the St. Catharines courthouse, remotely through reasonable means, such as phone calls, emails, or video conferencing, to remedy the outdated and burdensome in-person affirmation process.

[69] As mentioned earlier, the Plaintiffs have only advanced broad, conclusory statements, without accompanying affidavits or other corroborating material to substantiate their arguments. There is no evidence to support their claims regarding the burden of the in-person affirmation process at the St. Catharines courthouse. There is no evidence to support the financial burden they claim to experience under the Commissioning Act.

[70] The Plaintiffs have failed to present any evidence of their inability to access remote affirmations through other services available in the community.

[71] Accordingly, I am not satisfied that a waiver of compliance with r. 4.03 is appropriate in this case. The Plaintiffs have not demonstrated sufficient grounds to justify an exemption from these procedural safeguards, which are designed to ensure the integrity and reliability of sworn evidence.

[72] The evidentiary deficiencies I have previously identified significantly undermine the Plaintiffs' ability to advance a constitutional challenge to r. 4.03 and s. 9 of the Commissioning Act.

Is r. 15.01(1) of no force or effect on the ground that it violates ss. 2(b), 7 and 15(1) of the *Charter*?

Overview – Position of the Parties – Doctrine of Horizontal Stare Decisis

[73] The Defendant and Intervenor submit that the Superior Court of Justice resolved the questions of law raised in this case in *Weidenfeld*: the court upheld the constitutional validity of the requirement that legal counsel represent parties under disability under ss. 2(b), 7 and 15(1) of the *Charter*. They argue that the case is binding on this court as a matter of horizontal *stare decisis*,

and that the exceptions set out in *R. v. Sullivan*, 2022 SCC 19, [2022] 1 S.C.R. 460, at paras. 65 and 75, allowing this court to depart from a decision of a court of coordinate jurisdiction on a point of law, do not apply.

[74] The Plaintiffs' arguments include:

a) Reliance on legal precedent by the Intervenor is a structural maneuver to effectively pre-load the court with discretionary tools to establish a pathway for dismissal of the proceeding while denying the Plaintiffs a meaningful opportunity to have their case heard on the substantive issues; and

b) This case can be factually distinguished from the circumstances in *Weidenfeld* on the basis that this case involves allegations of racism, discrimination, abuse, and harm to a child by a public institution.

Decision of the Superior Court of Justice in Weidenfeld

[75] In *Weidenfeld*, a plaintiff father brought an action in the Superior Court against his son's school board and the Ministry of Education. Mr. Weidenfeld alleged that the requirement that a litigation guardian must be represented by counsel infringed ss. 2(b), 7 and 15(1) of the *Charter*. Justice Bryant upheld the constitutionality of the then r. 7.05(3) (now r. 7.01(5)) and dismissed the constitutional challenge.

[76] With respect to the s. 2(b) claim, Justice Bryant ruled that regulated expression was permissible in the court proceedings: "The courtroom is a public place, but it is not a town hall. Pre-trial proceedings and trials are governed by a multitude of rules controlling who, when, where and how a person may express himself or herself": *Weidenfeld*, at para. 34.

[77] Justice Bryant added that neither the purpose nor the effect of the rule was to regulate or restrict expression, but rather to "protect a vulnerable class of persons": *Weidenfeld*, at para. 34.

[78] With respect to the challenge to s. 7 of the *Charter*, Justice Bryant ruled that the requirement for legal representation did not engage the claimant's liberty or security of the person interests:

a) Rule 7.05(3) did not engage the claimant's liberty interests, as "[t]he state is not making a pronouncement as to Mr. Weidenfeld's ability, fitness, or parental status, nor does the rule usurp his parental role or pry into the intimacies of the parent-child relationship": *Weidenfeld*, at para. 27.

b) Rule 7.05(3) did not engage the claimant's security of the person interests, as the rule "[did] not directly interfere, with the psychological integrity of Mr. Weidenfeld qua parent": *Weidenfeld*, at para. 27.

[79] Even though the plaintiffs did not allege an infringement of the right to life, Justice Bryant concluded that, "[a] rule requiring that a litigation guardian must be represented by a lawyer does not deprive Mr. Weidenfeld's life, liberty or security of the person interests protected under s. 7 of the *Charter*": *Weidenfeld*, at para. 28.

[80] When applying the second step of the s. 7 analysis, Bryant J. concluded at para. 29:

> If this Court is wrong and it is found that Rule 7.05(3) deprives Mr. Weidenfeld's liberty or security of the person interests, the Court finds that such deprivation was in accordance with the principles of fundamental justice. The common law has long recognized the power of the state to intervene to protect children. Rule 7.05(3) is one part of a regulative scheme to protect persons under disability in Ontario and other provinces. The purpose of these rules is to protect vulnerable members of our society from being taken advantage of due to their inexperience and to protect them from improvident decisions. These vulnerable persons are in need of protection and these rules are in furtherance of the government's *parens patriae* jurisdiction. Accordingly, the Court finds that the requirement that a litigation guardian for a person under a disability be represented by a lawyer is in accordance with the principles of fundamental justice.

[81] Mr. Weidenfeld asserted that r. 7.05(3) discriminates based on financial means and differentiates between minors and adults. These assertions closely parallel the current Plaintiffs' arguments.

[82] In addressing the s. 15(1) challenge, the court in *Weidenfeld*, at para. 37, cited the decision of the Supreme Court of Canada in *Law v. Canada (Ministry of Employment and Immigration)*, [1999] 1 S.C.R. 497:

> [T]he purpose of s. 15(1) is to prevent the violation of essential human dignity and freedom through the imposition of disadvantage, stereotyping, or political or social prejudice, and to promote a society in which all persons enjoy equal recognition at law as human beings or as members of Canadian society, equally capable and equally deserving of concern, respect and consideration.
>
> The existence of a conflict between the purpose or effect of an impugned law and the purpose of s. 15(1) is essential in order to found a discrimination claim. The determination of whether such a conflict exists is to be made through an analysis of the full context surrounding the claim and the claimant. [Citations omitted.]

And at para. 40:

> [A] court must identify differential treatment as compared to one or more other persons or groups. Locating the appropriate comparator is necessary in

> identifying differential treatment and the grounds of the distinction. Identifying the appropriate comparator will be relevant when considering many of the contextual factors in the discrimination analysis. [Citations omitted.]

[83] Justice Bryant observed that the *Rules* do not differentiate based on financial status. They mandate that all litigation guardians for individuals under disability must be represented by a lawyer, irrespective of their financial means: *Weidenfeld*, at para. 43. In considering discrimination based on age, Justice Bryant observed that age-based distinctions are common in regulatory legislation. "For example, age is the basis of laws governing driving, drinking alcohol, and voting. The age distinction does not violate the essential human dignity and freedom of Joel Weidenfeld, the minor plaintiff, in the circumstances of this case": *Weidenfeld*, at para. 43.

[84] Justice Bryant held that any age-based distinction under r. 7.05(3) was not substantively discriminatory because:

> A minor, like other persons under a disability, requires the assistance of a lawyer, or alternatively, the assistance of the Children's Lawyer or the Public Guardian and Trustee. The Court finds that the inclusion of minors as a person under a disability does not … disadvantage the minor plaintiff: *Weidenfeld*, at para. 43.

[85] *Rules* 7.01 and 15.01(1) operate in tandem, having the same legal effect in the context of a minor's representation in civil proceedings: they both aim to ensure that the child's interests are properly represented before the court.

[86] In this proceeding, Mr. Read alleges systemic abuse and racial discrimination within the Defendant's school board, profoundly affecting the well-being and safety of the child involved. These allegations impact not only the Minor's education but also his overall development, physical health, and mental health. The facts of this case raise serious questions under the *Charter*.

[87] Although the factual underpinnings of this case differ from those in *Weidenfeld*, the substantive arguments advanced regarding the *Charter* challenges are indistinguishable. The Supreme Court of Canada in *Sullivan*, speaking of the doctrine of *stare decisis,* at para. 65 said:

> Horizontal *stare decisis* applies to courts of coordinate jurisdiction within a province, and applies to a ruling on the constitutionality of legislation as it does to any other legal issue decided by a court, if the ruling is binding. While not strictly binding in the same way as vertical *stare decisis*, decisions of the same court should be followed as a matter of judicial comity, as well as for the reasons supporting *stare decisis* generally.

[88] The *Weidenfeld* decision conclusively resolves the legal question in the present case, namely, whether the requirement that a lawyer represent a litigation guardian for a person under a disability unjustifiably infringes ss. 2(b), 7 or 15(1) of the *Charter*.

Are there grounds to depart from the ruling in Weidenfeld?

[89] Trial courts should only depart from decisions issued by a court of coordinate jurisdiction in three narrow circumstances:

a) The rational of an earlier decision has been undermined by subsequent appellate decisions;

b) The earlier decision was reached *per incuriam* ("through carelessness" or "by inadvertence"); or

c) The earlier decision was not fully considered, e.g. taken in exigent circumstances.

Sullivan, at para. 75.

[90] *Weidenfeld* has not been overruled nor is it inconsistent with a decision of a higher court.

[91] The three-part test applied by Justice Bryant to the s. 2(b) analysis as found by the Supreme Court of Canada in *Montreal (City) v. 2952-1336 Quebec Inc*., 2005 SCC 62, [2005] 3 S.C.R. 141, continues to be applied by Ontario courts: see *Charles Frederick Armstrong v. The Township of Russell*, 2025 ONSC 3790; *Animal Justice et al. v. A.G of Ontario*, 2024 ONSC 1753, 494 D.L.R. (4th) 575, at para. 53; *Fair Change v. His Majesty the King in Right of Ontario*, 2024 ONSC 1895, 170 O.R. (3d) 561, at para. 212.

[92] The two-part test applied by Justice Bryant to the s. 7 analysis continues to be applied by Ontario courts: see *Canadian Council for Refugees v. Canada (Citizenship and Immigration)*, 2023 SCC 17, 481 D.L.R. (4th) 581, at para. 56; *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44, [2000] 2 S.C.R. 307, at para. 83; *Filip v. Waterloo (City)*(1992), 98 D.L.R. (4th) 534 (Ont. C.A.).

[93] The test and framework used for the analysis of s. 15 *Charter* challenges have evolved and simplified since the court's decision in *Weidenfeld*. The current test requires that the Plaintiffs demonstrate that r. 15.01(1):

i. on its face or in its impact, creates a distinction based on an enumerated or analogous ground; and

ii. the distinction imposes burdens or denies benefits in a manner that has the effect of reinforcing, perpetuating or exacerbating disadvantage.

See: *Quebec (Attorney General) v. Alliance du personnel professionnel et technique de la santé et des services sociaux*, 2018 SCC 17, [2018] 1 S.C.R. 464 and reaffirmed in *Fraser v. Canada (Attorney General)*, 2020 SCC 28, [2020] 3 S.C.R. 113 at para. 27 and *R. v. Sharma*, 2022 SCC 39, 165 O.R. (3d) 398 at para. 28.

[94] While the two-step analysis has evolved, the Plaintiffs must still establish a distinction based on an enumerated or analogous ground within the legislative purpose of s. 15 of the *Charter*, which seeks to advance substantive equality. The analysis continues to focus on the content of the law challenged under the *Charter*, including its purpose and impact.

[95] The Plaintiffs must provide concrete evidence to support their claim of discriminatory impact. The inquiry focuses on the distinction between substantive and formal equality: *Sharma*, at para. 37. A key aspect of the framework is particularly relevant here: whether the law meets the actual needs and capacities of the plaintiff: *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 S.C.R. 497, at para. 88; *Sharma*, at para. 53. In my view, the reasoning used by Justice Bryant in dismissing the s. 15(1) *Charter* challenge remains consistent with the aims and objectives of the current two-step analysis.

[96] The Plaintiffs have not argued that the decision in *Weidenfeld* was made *per incuriam* or was not fully considered. Even if those arguments were advanced, I note that the Divisional Court, in denying leave to appeal, observed that Justice Bryant applied well-established *Charter* principles and provided careful reasons.

[97] Horizontal *stare decisis* is a fundamental principle that ensures consistency, predictability, and judicial economy within the legal framework by requiring courts to respect established legal rulings in analogous cases decided by a court of coordinate jurisdiction. By adhering to precedent, judges reinforce the integrity of the judicial process, facilitate fairness in legal outcomes, and enhance public confidence in the judicial system. In light of these considerations, the interests of justice and judicial comity necessitate that I adhere to the prior decision of this court in *Weidenfeld*.

[98] The decision in *Weidenfeld* is binding on this Court as a matter of horizontal *stare decisis*. None of the exceptions set out in *Sullivan* apply.

Section 7 Right to Life

[99] While Justice Bryant determined that r. 15.01 does not infringe s. 7 of the *Charter*, I note that the plaintiffs in that case did not advance an argument that the right to life was engaged or infringed.

[100] In the present matter, the Plaintiffs advance a distinct constitutional challenge to r. 15.01(1), alleging that its application infringes not only the rights to liberty and security of the person, but also the right to life. Mr. Read did not specifically address the life component of the s. 7 claim during oral submissions, nor did he engage with it in any substantive manner in the written materials—focusing instead on the alleged infringement of security of the person. Nonetheless, I will offer the following comment on the constitutional challenge.

[101] Section 7 of the *Charter* states:

> Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

[102] To prove a breach of s. 7, the Plaintiffs must prove that: (1) a law or state action deprives them of their life, liberty or security of the person; and (2) that the deprivation is not in accordance with the principles of fundamental justice: see *Canadian Council for Refugees v. Canada (Citizenship and Immigration)*, 2023 SCC 17, 481 D.L.R. (4th) 581 at para. 56; *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 S.C.R. 331, at para. 55.

[103] There is no need to examine the second step of the test if r. 15.01(1) does not deprive the Plaintiffs' right to life, liberty, and security of the person: *Blencoe*, at para. 47.

[104] The Plaintiffs submit that upholding the constitutionality of r. 15.01(1) is not merely procedurally unjust—it is substantively harmful.

[105] Mr. Read asserts that the strict application of r. 15.01(1) silences the Minor's voice and denies him meaningful participation in a proceeding that directly concerns his safety, dignity, and legal rights, forcing him to return to an academic environment that has been demonstrably abusive, characterized by discriminatory, degrading, and dehumanizing treatment. Moreover, it would force his wife and daughter to re-live trauma, navigate legal procedures and advocate for themselves in an adversarial setting that would continue to inflict emotional distress.

[106] The Plaintiffs argue that this procedural requirement, when enforced without regard to the specific circumstances of the Plaintiffs, creates a constitutional infirmity: it imposes a barrier to access to justice and exposes this family to further psychological and emotional harm.

[107] The courts have repeatedly found that the ability to bring or to defend a civil claim does not typically engage s. 7 interests: see *Blencoe*, at para. 83; *Filip*, at para. 8; *Campisi v. Ontario*, 2017 ONSC 2884, 382 C.R.R. (2d) 320, at para. 37, aff'd 2018 ONCA 869, 144 O.R. (3d) 638; *Rogers v. Faught* (2002), 212 D.L.R. (4th) 366 (Ont. C.A.), at para. 34.

[108] The Plaintiffs have offered no evidence or argument that undermines this jurisprudential consensus. In the absence of such evidence, the Plaintiffs' claim that r. 15.01(1) infringes their right to life as protected by s. 7 of the *Charter* is speculative. Procedural barriers may understandably lead to stress, frustration, or delays. These consequences—without more—do not engage the life component of s. 7.

[109] The jurisprudence is clear that emotional or psychological hardship, though relevant to the liberty and security of the person, does not, in and of itself, constitute an infringement of the right to life.

[110] Accordingly, for the foregoing reasons, including the limited evidentiary record before me, I am not satisfied that the Plaintiffs have established that r. 15.01(1) violates their right to life. The challenge on this ground is dismissed.

Conclusion

[111] The issues raised by Mr. Read in his submissions and supporting materials are of profound importance to his son and family. He advances serious allegations concerning the Defendant's duty of care owed to his son. Mr. Read has demonstrated a clear and thorough understanding of his son's experiences and has conveyed his concerns to the court with sincerity and conviction.

[112] Mr. Read asserts that upholding the constitutionality of the impugned rules would force his child to return to a harmful school environment and that this court would demonstrate complacency by perpetuating these harms.

[113] The consequence of this decision is not to force the Minor to return to a harmful environment. This decision does not foreclose the possibility of ongoing dialogue between the parties, including alternative educational arrangements. Various options remain available to the family, including continued access to homeschooling and the potential for more structured remote learning involving individualized education plans.

[114] This decision does not foreclose the Minor's ability to pursue his claims against the Defendant. The Plaintiffs have the option of proceeding with the litigation complying with the procedural requirements of the *Rules* or the Minor may pursue his claim independently at the age of 18.

Disposition

[115] The Plaintiffs have failed to prove that a waiver of compliance with the *Rules* is warranted in the circumstances of this case or that r. 15.01(1) violates ss. 2(b), 7 or 15 of the *Charter*.

[116] The Plaintiffs' application is dismissed.

[117] The Plaintiffs were not successful, and accordingly, the Defendant and the Intervenor are presumptively entitled to their costs on a partial indemnity basis. The parties are encouraged to settle the issue of costs, failing which the Defendant and Intervenor may serve and file written costs submissions up to two pages, excluding a bill of costs and any offers to settle, as well as upload them to Case Center and send a copy to my attention at St.Catharines.SCJJA@ontario.ca no later than December 1, 2025; responding submissions on the same terms no later than December 12, 2025 and reply submissions, if any, limited to two pages, no later than December 22, 2025.

[118] The stay ordered by Donohue J. on February 24, 2025, is extended for a further 90 days during which time it is expected that the Plaintiffs will take steps to comply with rr. 7.01 and 15.01(1) and the requirement that the Minor be represented by a litigation guardian who must be represented by a lawyer.

L. E. Standryk, J.

Released: November 21, 2025

CITATION: Read v. District School Board of Niagara, 2025 ONSC 6425
COURT FILE NO.: CV-25-00062860-000
DATE: 2025-11-21

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Eexii Read, Allison Read, Kniighetti Read and Kory Read

Plaintiffs/Moving Parties

– and –

District School Board of Niagara

Defendant/Responding Party

- and-

Attorney General of Ontario

Intervenor

REASONS FOR JUDGMENT

L. E. Standryk J.

Released: November 21, 2025